

01
02
03
04
05
06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 JOHN ROBERT APPLEBY,) CASE NO. C08-1115-RSL
09 Plaintiff,)
10 v.)
11 SNOHOMISH COUNTY DETENTION) REPORT AND RECOMMENDATION
12 FACILITY, et al.,)
13 Defendants.)

14 This matter comes before the Court because plaintiff John Robert Appleby failed to notify
15 the Court of his current address. After reviewing the record, the Court recommends dismissing
16 this action and denying the *in forma pauperis* (IFP) application as moot.

17 **DISCUSSION**

18 On August 27, 2008, the Court delayed consideration of Mr. Appleby's IFP application,
19 declined to serve his proposed § 1983 civil rights complaint, and granted him leave to amend the
20 complaint by September 26, 2008. (Dkt. 6.) On September 4, 2008, the postal service returned
21 the copy of the order that was sent to Mr. Appleby at his last known address. (Dkt. 7.) Local
22 Rule CR 41(b)(2) states:

01 A party proceeding pro se shall keep the court and opposing parties advised as to his
02 current address. If mail directed to a pro se plaintiff by the clerk is returned by the
03 post office, and if such plaintiff fails to notify the court and opposing parties within
sixty days thereafter of his current address, the court may dismiss the action without
prejudice for failure to prosecute.

04 Thus, Mr. Appleby should have notified the court and opposing counsel of his current address by
05 November 3, 2008. *See also* Local Rule W.D. Wash. CR 10(f) (requiring parties to notify the
06 court within ten days of a change of address). The Court is unaware of any other place of
07 residence or confinement for Mr. Appleby. Because Mr. Appleby failed to notify the Court of his
08 current address by the sixty-day deadline to do so, this action should be dismissed without
09 prejudice for failure to prosecute.

10 CONCLUSION

11 The Court recommends that this action be DISMISSED without prejudice for failure to
12 prosecute pursuant to Local Rule CR 41(b)(2) and that the IFP application be DENIED as moot.
13 A proposed order accompanies this Report and Recommendation.

14 DATED this 4th day of November, 2008.

15 

16 Mary Alice Theiler
17 United States Magistrate Judge
18
19
20
21
22